

ID: CCA\_2010041207521641

Number: **201018005**

Release Date: 5/7/2010

Office:

UILC: 6603.00-00

---

**From:**

**Sent:** Monday, April 12, 2010 7:52:22 AM

**To:**

**Cc:**

**Subject:** RE: Chief Counsel Notice CC-2010-002

We would rely on our statutory authority to offset pursuant to code section 6402. Although the TP made the remittance after petitioning, but prior to the date the Tax Court filed its decision, the logic of Section 4.05 of Rev. Proc. 2005-18, Post Stat-Notice Remittances, would still control. That section provides that "(3) If the taxpayer has no other outstanding liabilities, an undesignated remittance made by the taxpayer after the date that the Tax Court files its decision in an amount that is greater than the amount of the deficiency determined by the Tax Court, plus any interest that has accrued on that amount at the remittance date, will be treated as a deposit, but only to the extent the amount of the remittance exceeds the amount of the deficiency determined by the Tax Court, plus interest. This excess amount will be treated as a deposit until sufficient information is obtained by the Service to apply the remittance to an outstanding liability or to determine that the amount of the remittance should be returned to the taxpayer. The amount that is less than or equal to the amount of the deficiency plus interest will be applied as a payment." Therefore, we properly exercised our offset authority. The TP is not entitled to request the return of his excess deposit because he had other outstanding liabilities. Does this clarify? If not, feel free to give me a call.